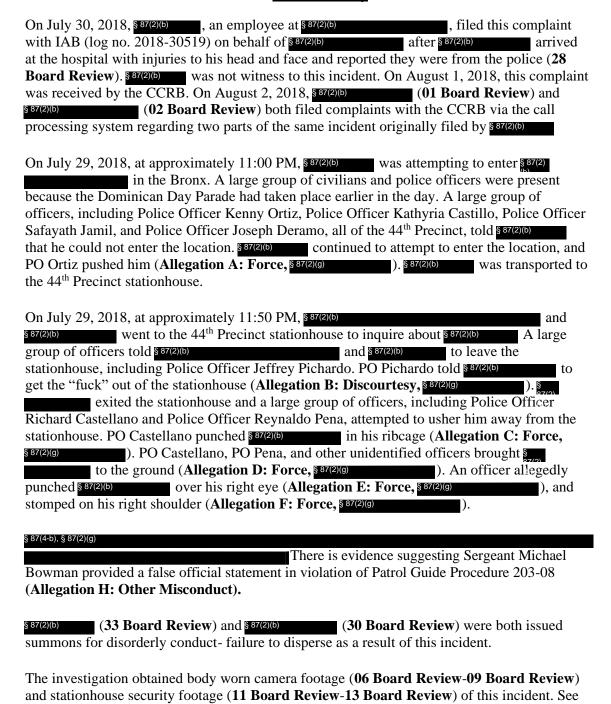
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	☑ Discourt.	☐ U.S.
Tessa Yesselman		Squad #4	201806270		Abuse	O.L.	_
Tessa Tessennan		Squau #4	201800270	╟	Abuse	☐ U.L.	☑ Injury
Incident Date(s)		Location of Incident:	•	F	Precinct:	18 Mo. SOL	EO SOL
Sunday, 07/29/2018 11:00 PM					44	1/29/2020	1/29/2020
Date/Time CV Reported		CV Reported At:	How CV Reporte	d:	Date/Time	e Received at CC	RB
Tue, 07/31/2018 5:48 PM		IAB	Phone		Wed, 08/0	01/2018 5:48 PM	1
Complainant/Victim	Type	Home Add	ress		•		
Witness(es)		Home Add	ress				
Subject Officer(s)	Shield	TaxID	Command				
1. POM Kenny Ortiz	20334	959021	044 PCT				
2. POM Reynaldo Pena	17871	959056	044 PCT				
3. SGT Michael Bowman	00818	939932	044 PCT				
4. POM Jeffrey Pichardo	18495	959073	044 PCT				
5. POM Richard Castellano	25087	957429	044 PCT				
6. An officer			044 PCT				
7. Officers			044 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POM Jeuri Paulino	11935	954220	044 PCT				
2. POM Jason Torres	28651	939591	044 PCT				
3. POF Kathyria Castillo	21358	959540	044 PCT				
4. POM Joseph Deramo	20280	958492	044 PCT				
5. POF Madison Lindeman	30074	965271	044 PCT				
6. SGT Sergio Delamota	03954	943137	PSB				
7. POM Safayath Jamil	13348	960722	044 PCT				
Officer(s)	Allegatio	n			Inve	estigator Reco	nmendation
A . POM Kenny Ortiz		front of §87(2)(b) Ficer Kenny Ortiz use	in the Brod physical force aga		A .	§ 87(2)(g)	I
B . POM Jeffrey Pichardo		esy: Inside of the 44th effrey Pichardo spoke			lice B.	§ 87(2)(g)	I
C. POM Richard Castellano		front of the 44th Precichard Castellano used.			C .	§ 87(2)(g)	I
D . Officers		front of the 44th Precsical force against \$870		ficers	D.	§ 87(2)(g)	

Officer(s)	Allegation	Investigator Recommendation
E . An officer	Force: In front of the 44th Precinct stationhouse, an officer used physical force against \$87(2)(b).	E. § 87(2)(9)
F. An officer	Force: In front of the 44th Precinct stationhouse, an officer used physical force against \$87(2)(b)	F. §87(2)(g)
§ 87(4-b), § 87(2)(g)		
H . SGT Michael Bowman	Other: There is evidence suggesting Sergeant Michael Bowman provided a false official statement in violation of PG 203-08.	H. § 87(2)(9)

Case Summary



CCRB Case # 201806270

allegations below for corresponding footage.

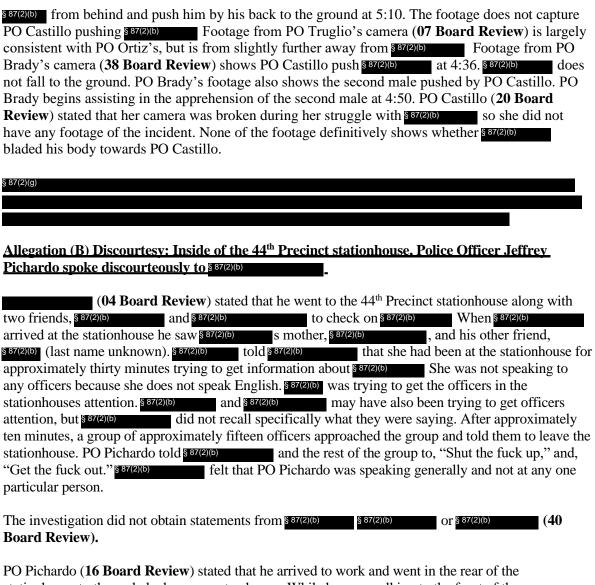
Findings and Recommendations

Allegation (A) Force: In front of 887(2)(b) Officer Kenny Ortiz used physical force against § 87(2)(b) It is undisputed that § 87(2)(b) was attempting to enter § 87(2)(b) in the Bronx and that officers were not allowing anyone inside of the location. It is also undisputed that PO Ortiz pushed § 87(2)(b) to the ground. (03 Board Review) stated that he was standing outside of §87(2)(b) and a large group of officers were yelling for people to disperse from the area. §87(2)(b) towards the curb in front of the location and asked if he could stand where he was so that he could re-enter the building, because he lived there. PO Castillo told §87(2)(b) that he could not stand there and grabbed his arm. § 87(2)(b) pulled his arm away from PO Castillo. A group of approximately five officers approached § 87(2)(b) and pushed § 87(2)(b) to the ground by pushing him over the leg of one of the officers, so that he tripped and fell to the ground. s medical records (35 Board Review) state that he complained of pain to the left side of his body. The records show that \$27(2)(b) stated he was thrown to the ground by the NYPD and fell on the left side of his body and coughed up blood as a result. The records also state that had a preexisting condition of cystic fibrosis. PO Castillo (20 Board Review) stated that she observed multiple officers telling § 97(2)(b) leave the location and that \$87(2)(b) continued to walk towards the location. \$87(2)(b) leaned against a car and continued to ignore commands to leave. PO Castillo then approached and told him to leave. § 37(2)(b) ignored PO Castillo, so PO Castillo pushed him. was facing PO Castillo when she pushed him. PO Castillo pushed \$87(2)(b) by one of his shoulders. PO Castillo did not recall if \$\sigma(2)(b)\$ fell to the ground as a result of her push. never attempted to punch PO Castillo. PO Castillo did not have any further contact with Immediately after PO Castillo punched \$87(2)(6) a different male approached her and told her not to push his friend. This male swung his arm towards PO Castillo, as if he was trying to punch her. PO Castillo and other officers brought this male to the ground. PO Ortiz (15 Board Review) stated that he observed PO Castillo push §87(2)(b) Immediately after PO Castillo pushed him, \$87(2)(b) bladed his body towards PO Castillo and held his fists in front of his body in an aggressive posture. § 87(2)(b) did not make any further movements towards PO Castillo and did not attempt to strike PO Castillo. PO Ortiz thought that 387(2)(5) posed a threat to PO Castillo because of his aggressive posture, so he approached [87(2)(6)] behind and shoved him to the ground by his back. § 87(2)(b) fell to the ground and landed in the street, between two parked cars. PO Deramo (18 Board Review) stated that he was standing with his back towards PO Castillo and he heard her begin to talk loudly at a high pitch. When PO Deramo turned around he saw PO Castillo and an individual on the ground. PO Deramo did not know how either party came to be on the ground. PO Deramo did not observe any individual attempt to punch PO Castillo. PO Deramo

PO Jamil (**22 Board Review**) stated that was not the individual who attempted to punch PO Castillo. PO Jamil did not observe PO Ortiz push anyone.

Footage from PO Ortiz's body worn camera (**08 Board Review**) shows PO Ortiz approach

did not observe PO Ortiz push anyone.



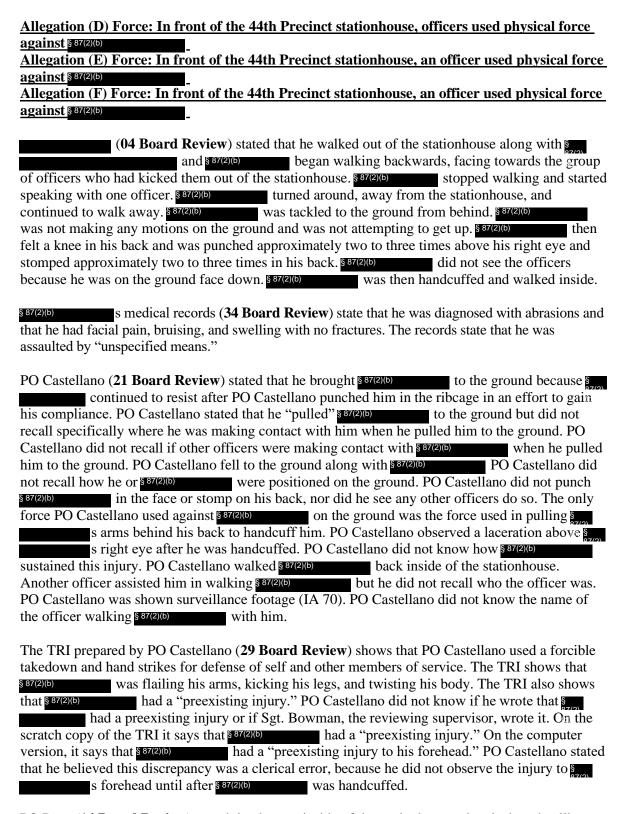
PO Pichardo (16 Board Review) stated that he arrived to work and went in the rear of the stationhouse to the male locker rooms to change. While he was walking to the front of the stationhouse for roll call he heard a loud commotion. PO Pichardo learned from other officers that there was a group of civilians present asking for information about a friend who had been arrested. One officer was trying to speak to the group but they were not listening. The group was loud and boisterous and one of the members in the group said, "If I pulled out a gun right now and pointed it at you, you would pay attention to me." PO Pichardo then approached the group and said, "Get the fuck out." PO Pichardo said this to try and get their attention, and to convince them to leave the stationhouse. PO Pichardo did not know which member of the group made the threat. PO Pichardo did not know which officer was speaking to the group.

PO Ortiz (15 Board Review), PO Pena (14 Board Review), PO Deramo (18 Board Review), PO Castellano (21 Board Review), Sgt. De La Mota (19 Board Review), and Sgt. Bowman (17 Board Review) all denied saying, "Shut the fuck up," or, "Get the fuck out" to any of the civilians in the stationhouse and did not hear any other officers do so.

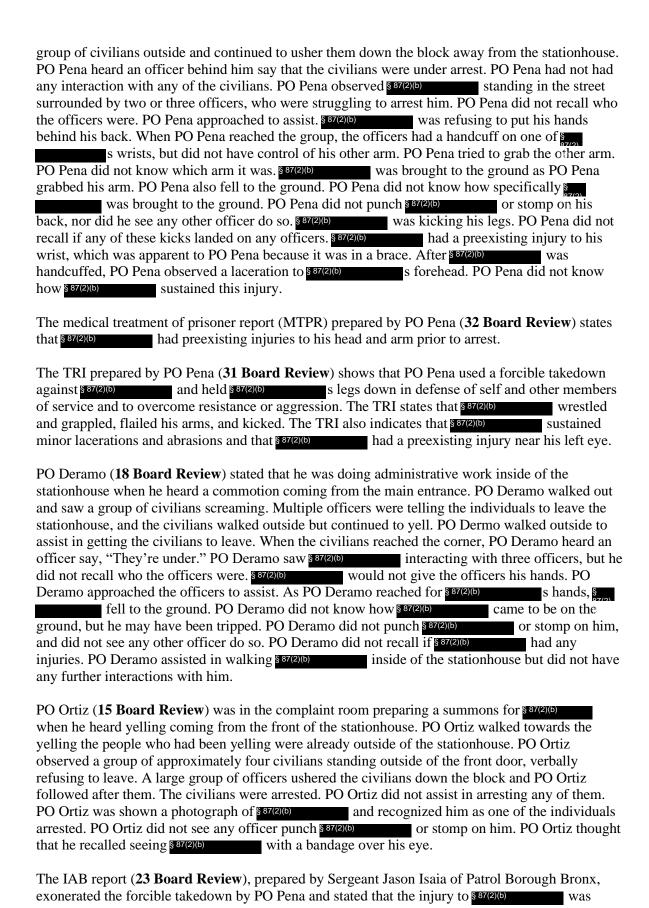
The investigation obtained stationhouse security footage of this portion of this incident, but the footage does not include audio. The footage (11 Board Review) shows that [\$87(2)(b)] entered

motion for them to leave. §87(2)(6) exits the stationhouse at 31:06. § 87(2)(g) Allegation (C) Force: In front of the 44th Precinct stationhouse, Police Officer Richard Castellano used physical force against § 87(2)(b) PO Castellano (21 Board Review) stated that he punched § 87(2)(b) in his right ribcage. § **■ (04 Board Review)** did not make this allegation. (04 Board Review) stated that he walked out of the stationhouse along with and § 87(2)(b) began walking backwards, facing towards the group of officers who had kicked them out of the stationhouse. §87(2)(b) stopped walking and started speaking with one officer. § 87(2)(b) turned around, away from the stationhouse, and continued to walk away. §87(2)(b) was tackled to the ground from behind by a group of officers, as discussed in the allegation below. PO Castellano (21 Board Review) stated that he observed an officer attempting to handcuff PO Castellano did not recall who the officer was. §87(2)(b) was being uncompliant. The officer was trying to pull \$87(2)(b) s arms behind his back, and \$ was pulling his arms away from the officer to prevent them from doing so. then "cocked" one of his arms back, as if he was preparing to punch the officer. PO Castellano considered this to be a precursor to arrest because § 87(2)(b) was resisting arrest and potentially about to assault a police officer. PO Castellano approached \$37(2)(b) in apprehending him and "grabbed" him to pull him away from the officer. PO Castellano tried to pull § 87(2)(b) s arms behind his back, but § 87(2)(b) continued to hold his arms in front of his body. \$37(2)(b) then stomped on PO Castellano's left foot and kicked him in the right shin. PO Castellano was not injured as a result. PO Castellano punched \$37(2)(b) "several" times in his right ribcage. PO Castellano used this force because §87(2)(b) was continuing to resist arrest and had stomped on him and kicked him and posed a physical threat to him. did not stop resisting as a result of this force, so PO Castellano brought § 87(2)(b) to the ground (as discussed in the allegation below). PO Castellano did not activate his body worn camera. The investigation obtained stationhouse surveillance footage of this incident, but this portion of the incident happened at the end of the block and the camera does not clearly capture the interaction.

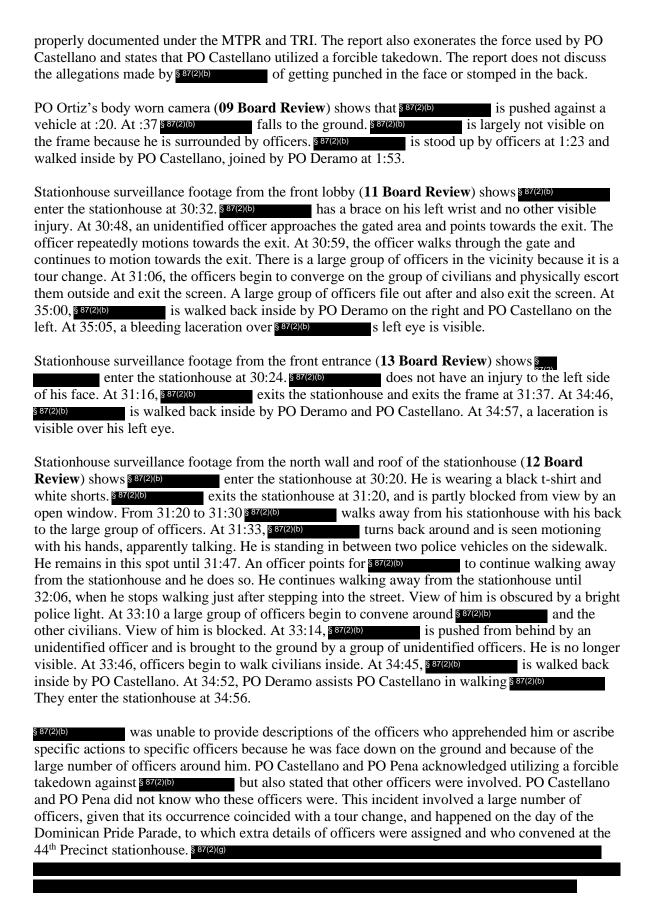
the stationhouse at 30:32 and 16 seconds later at 30:48 an officer approached the group and began to



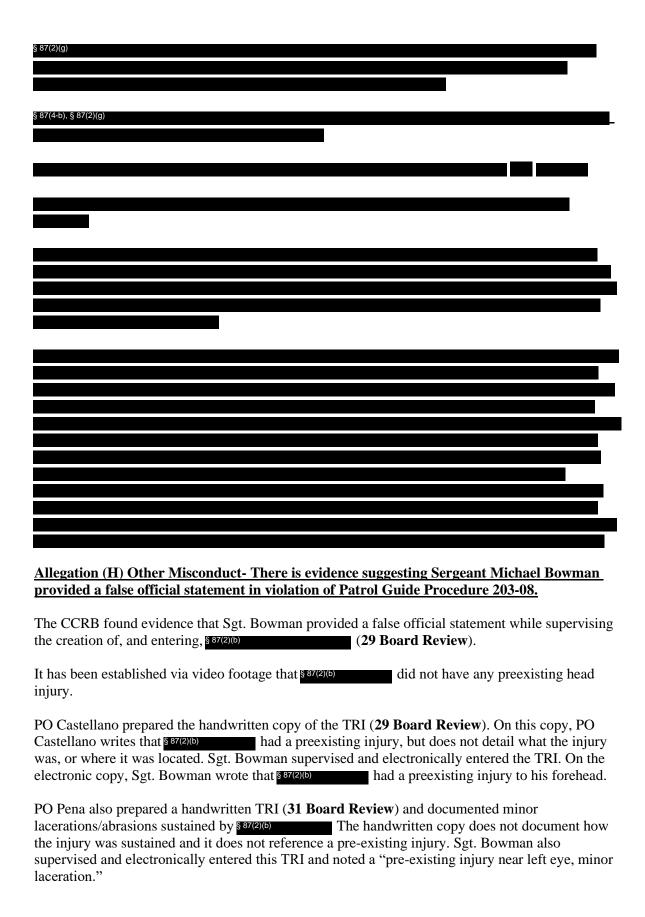
PO Pena (14 Board Review) stated that he was inside of the stationhouse when he heard yelling coming from the front entrance. PO Pena walked towards the yelling, and observed multiple officers telling a group of civilians to leave the stationhouse. A large group of officers "herded" the



CCRB CTS – Confidential Page 6



Page 7



CCRB CTS – Confidential Page 8

During his CCRB interview, PO Castellano stated that the injury to stated that the injury to preexisting, and that he first saw the injury after had been apprehended (21 Board Review). PO Castellano stated that the discrepancy between the handwritten and electronic version of the reports may have been a clerical error. PO Castellano also stated that he created the handwritten copy, but that Sgt. Bowman had created and entered the electronic version (21 Board Review). Sgt. Bowman stated that he did not recall the incident, and did not recall the incident after being shown paperwork and video evidence (17 Board Review).

<u>Patrol Guide Procedure 203-08</u> states that an officer is prohibited from making a false official statement and that an officer found to have made such a statement will be subject to disciplinary action. The statement must be proven to have been made, material, and intentionally false.

§ 87(2)(g)		

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) has been party (24 Board Review).
- This is the first CCRB complaint to which \$87(2)(b) has been party (25 Board Review).
- PO Pichardo has been a member of service for four years and has been a subject in one case with two allegations with no substantiations. §87(2)(9)
- PO Castellano has been a member of service for four years and has been a subject in two previous cases and three allegations with no substantiations.
 - o PO Castellano has two previous physical force allegations.
- PO Pena has been a member of service for four years and has been a subject in four cases with seventeen allegations and no substantiations.
 - o PO Pena has seven previous physical force allegations.
- PO Ortiz has been a member of service for four years and has been a subject in six cases with six allegations.
 - Case 201804152 involved a substantiation allegation of discourtesy. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - Case 201900058 involved a substantiated allegation of refusal to provide medical treatment. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - o PO Ortiz has one previous physical force allegation.

Mediation. Civil and Criminal Histories

- This complaint was not suitable for mediation.
- According to the Office of Court Administration, [\$87(2)(b)] has no history of convictions in New York City (**26 Board Review**).
- According to the Office of Court Administration, §87(2)(b) has no history of

convictions in New York City (27 Board Review).

Squad No.:

Investigator:

Signature

Print Title & Name

Date

Squad Leader:

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date

Notice of Claim being filed in regards to this complaint (39 Board Review).

As of November 14, 2019, the New York City Office of the Comptroller has no record of a